

# Notice of Allowability

Application No.

10/725,306

Examiner

Kathleen Sonnett

Applicant(s)

RALPH ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/29/2007.
2. ☒ The allowed claim(s) is/are 1 and 3-15.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.


**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
GLENN K. DAWSON KCS  
PRIMARY EXAMINER

### REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The closest prior art of Freedland (U.S. 5,098,433) and Collins (U.S. 862,712).

Freedland will be discussed. Freedland discloses a tool comprising a longitudinal shaft (20) having a distal end and a proximal end, a trial head (30, 40) at the distal end of the longitudinal shaft, the head having a proximal portion, the trial head being laterally separable from the longitudinal shaft, and a head separator (12) having an engagement portion, the engagement portion of the head separator being longitudinally movable relative to the longitudinal shaft and engagable by the longitudinal movement with the proximal portion of the trial head wherein when the engagement portion of the head separator engages the proximal portion of the trial head, the trial head laterally separates from the longitudinal shaft (col. 9 ll. 31-36). The trial head comprises first and second jaw members (30, 40) each having a distal end and a proximal end, the proximal end being the proximal portion of the trial head, the distal ends of the jaw members being hinged to one another (pin 32) at the distal end of the shaft so that the proximal ends of the jaw members are openable and closable about the shaft. However, Freedland fails to disclose or fairly suggest a clam-shell style trial head as the jaws are offset from each other at their connection point by member (20). Collins discloses a tool comprising a longitudinal shaft (1) having a distal end and a proximal end, a clamshell-style trial head (2) at the distal end of the longitudinal shaft, the head having a proximal portion, the trial head being laterally separable from the longitudinal shaft, and a head separator (4) having an engagement portion (5), the engagement portion of the head separator being longitudinally movable relative to the longitudinal shaft and engagable by longitudinal movement with the proximal portion of the trial head wherein when the engagement portion of the head separator engages the proximal portion

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of the trial head, the trial head laterally separates from the longitudinal shaft. However, Collins fails to disclose or fairly suggest a trial head comprising first and second jaw members that are hinged together at their distal end since this would destroy the functioning of the device.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen Sonnett whose telephone number is 571-272-5576. The examiner can normally be reached on 7:30-5:00, M-F, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCS 7/6/2007

  
GLENN K. DAWSON  
PRIMARY EXAMINER